

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BRIAN ATER,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-20-1090-G
)	
LUKE PETTIGREW, Warden,)	
)	
Respondent.)	

ORDER

On October 26, 2020, Petitioner Brian Ater, a state prisoner, filed this action seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254. *See* Pet. (Doc. No. 1). In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Amanda Maxfield Green for preliminary review.

On May 21, 2021, Judge Green issued a Report and Recommendation (Doc. No. 17), in which she recommended the habeas petition be denied. In the Report and Recommendation, Judge Green advised the parties of their right to object to the Report and Recommendation by June 11, 2021. Judge Green also advised that a failure to timely object would constitute a waiver of the right to appellate review of the factual findings and legal conclusions contained in the Report and Recommendation.

The Court has twice extended Petitioner's deadline to object. The Court's most recent order, which informed Petitioner that the amended deadline was July 14, 2021, was mailed to Petitioner at his address of record, and there is no indication that it was not received.

As of this date, no party has submitted an objection to the Report and Recommendation or sought leave for additional time to do so beyond the July 14, 2021 deadline.


CONCLUSION

Accordingly, the Report and Recommendation (Doc. No. 17) is ADOPTED in its entirety. The Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 (Doc. No. 1) is DENIED. A separate judgment shall be entered.

Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts requires the Court to issue or deny a certificate of appealability when it enters a final order adverse to a petitioner. A certificate of appealability may issue only upon “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Upon review, the Court concludes that the requisite standard is not met in this case. Thus, a certificate of appealability is DENIED.

IT IS SO ORDERED this 9th day of November, 2021.


CHARLES B. GOODWIN
United States District Judge